

DEPARTMENT OF EDUCATION
SPECIAL EDUCATION PROGRAMS
Winner School District
Accountability Review - Monitoring Report 2011-2012

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Dates of On Site Visit: November 16, 2011

Date of Report: December 12, 2011

All non-compliance must be corrected within 1 year of this report date. Date Closed:

Program monitoring and evaluation.

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

- (1) That the requirements of this article are carried out;
- (2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Native American children operated or funded by the Secretary of the Interior:
 - (a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and
 - (b) Meets the educational standards of the state education agency, including the requirements of this article; and
- (3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

State monitoring--Quantifiable indicators and priority areas.

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

- (1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;
 - (2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and
 - (3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)
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State enforcement -- Determinations.

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act'
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference-ARSD 24:05:20:23.04.)

Deficiency correction procedures.

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARSD 24:05:20:20.)

NONCOMPLIANCE ISSUES

1. GENERAL SUPERVISION / STATE PERFORMANCE PLAN COMPLIANCE INDICATOR

ARSD 24:05:30:04. Prior notice. Written notice which meets the requirements of § 24:05:30:05 must be given to the parents five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. The five-day notice requirement may be waived by the parents.

ARSD 24:05:30:05. Content of notice. The notice must include the following:

- (1) A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the IEP team considered and the reasons why those options were rejected;
- (2) A description of each evaluation procedure, assessment, record, or report that the district uses as a basis for the proposal or refusal;
- (3) A description of any other factors which are relevant to the district's proposal or refusal;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this article and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this article.

CORRECTIVE ACTION

Prong 1: Correct each individual case of noncompliance

Through a review of student files, the monitoring team found that Prior Notice was not consistently used as required.

Student:	Required Action:	Data To Be Submitted:
Student #1: This student was evaluated in March 2011, but no documentation of Prior Notice for the evaluation was present in the student's file. A re-determination of the student's eligibility was conducted in November 2011, but the Prior Notice did not indicate that the	See required actions for Students #1, 6, 8, 11 & 13 in Noncompliance Issue #2 of this report	See data to be submitted for Students #1, 6, 8, 11 & 13 in Noncompliance Issue #2 of this report.

<p>scores from the March 2011 evaluation would be pulled forward to be utilized in the eligibility determination process. None of the Prior Notices for Evaluation present in the file included Skill-Based Assessments.</p> <p><u>Student #6:</u> An IEP meeting for this student was held in November 2010, but no Prior Notice for the meeting was present in the student's file.</p> <p><u>Student #8:</u> This student's IEP team determined eligibility utilizing previous evaluation information, but no Prior Notice for consent to evaluate was present in the student's file.</p> <p><u>Student #11:</u> No Prior Notice for Consent for the most recent re-evaluation was present in this student's file.</p> <p><u>Students #13 & 20:</u> These students were evaluated using the Bender Visual-Motor Gestalt Test, which was not indicated as an area to be evaluated on the Prior Notice.</p>		
<p><u>Students #9 & 10:</u> Both of these students transferred in to the Winner school district, but no Prior Notice to document review of their eligibility or acceptance of their IEPs was present in either file.</p>	<p>No action is required for Students #9 & 10.</p>	<p>No data must be submitted for Students #9 & 10.</p>
<p><u>Prong 2:</u> Correctly implement the specific regulatory requirements (i.e. achieved 100% compliance), based on the SEA's review of <u>updated data</u>.</p>		
<p>Required Action: The district must consistently provide prior written notice with required content when proposing or refusing to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. Additionally, the district must review and revise current policy, procedures, and practice to ensure that the transfer process for students with special needs meets compliance requirements.</p>		
<p>Data To Be Submitted: The district must submit the following information for two students (or for fewer if two students do not transfer in by Sept. 15th, 2012) who have transferred in to the Winner district with IEPs since the on-site review:</p> <ol style="list-style-type: none"> 1. Most recent evaluation report and IEP 2. Prior notice outlining district's proposed action 3. IEP addendum (if applicable) 		

4. Prior notice/Consent for evaluation (if applicable) 5. Evaluation report and eligibility determination report (if applicable) Additional documentation submitted for Noncompliance Issue #2 will be used to verify correction of this finding.
Target Date for Completion: September 15th, 2012
All non-compliance must be corrected within 1 year of this report date.
Date: Status Report:

2. GENERAL SUPERVISION / STATE PERFORMANCE PLAN COMPLIANCE INDICATOR

ARSD 24:05:22:03 Certified child

A certified child is a child in need of special education or special education and related services formulated and approved by a local placement committee. Documentation supporting a child's disabling condition as defined by Part B of the Individual with Disabilities Education Act must be maintained by the school district for verification of its annual federal child count. This definition applies to all eligible children ages 3-21 inclusive, and to only those children under the age of 3 who are in need of prolonged assistance.

ARSD 24:05:25:03. Preplacement evaluation. Before any action is taken concerning the initial placement of a child with disabilities in a special education program, a full and individual evaluation of the child's educational needs must be conducted in accordance with the requirements of this chapter. The evaluation must be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

ARSD 24:05:25:04.03. Determination of eligibility. Upon completing the administration of assessments and other evaluation measures as required by this chapter, the individual education program team and other qualified individuals required by § 24:05:25:04.02 shall determine whether the student is a student with a disability, and shall determine the educational needs of the child, as defined in this article. The school district shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. A student may not be determined to be a student with a disability if the determinant factor for that decision is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in ESEA, or lack of appropriate instruction in math or limited English proficiency and if the student does not otherwise meet the eligibility criteria under chapter § 24:05:24.01.

ARSD 24:05:25:12. Documentation of eligibility for specific learning disabilities. For a child suspected of having a specific learning disability, the documentation of the determination of eligibility shall contain a statement of:

- (1) Whether the child has a specific learning disability;
- (2) The basis for making the determination, including an assurance that the determination has been made in accordance with this section;
- (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
- (4) The educationally relevant medical findings, if any;
- (5) Whether:
 - (a) The child does not achieve adequately for the child's age or does not meet state-approved grade-level standards; and

- (b) The child does not make sufficient progress to meet age or state-approved grade-level standards; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade level standards or intellectual development;
- (6) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level;
- (8) If using the discrepancy model, the group finds that the child has a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability in one or more of the eligibility areas, the group shall consider regression to the mean in determining the discrepancy

CORRECTIVE ACTION

Prong 1: Correct each individual case of noncompliance

Through a review of student files, the monitoring team found that the school district did not consistently have information supporting a child's disabling condition/ status as a certified child.

Student:	Required Action:	Data To Be Submitted:
<u>Student #1:</u> This student was found eligible under the Autism category. However, there is no evidence of skill based assessment, leading to insufficient information to identify all of the student's special education and related services needs.	<u>Students #1, 6, 8, 11, 14, 16, 17 & 19:</u> The district must conduct a reevaluation of the student, including skill-based assessment in all areas of suspected disability and must reconvene the IEP team to determine eligibility based on the new evaluation information. If the team certifies the student as a student with a disability, the IEP team must develop a special education program designed to confer educational benefit in all areas of disability.	<u>Students #1, 6, 8, 11, 14, 16, 17 & 19:</u> The district will submit the following: 1. Prior notice/consent for evaluation 2. Copies of all evaluation reports 3. Copies of skill-based assessments 4. Prior notice for a meeting 5. Copies of eligibility determination documents 6. Copy of the IEP designed to confer educational benefit (if the child is determined to be eligible for special education and related services)
<u>Student #6:</u> This student was found eligible under the Autism category. However, not all required areas were evaluated to determine eligibility under this category.		
<u>Student #8:</u> This student was found eligible under Cognitive Disability. However, there was no evidence of skill-based assessment, leading to insufficient information to identify all of the student's special education and related services needs.		
<u>Student #11:</u> This student was on child count under Multiple Disabilities. However, evaluation information indicated that the team had determined the student eligible under Cognitive Disability. There was no evidence of skill-based assessment for speech, gross motor, or fine motor.		
<u>Student #14:</u> This student was found eligible under Speech/Language Impairments. However, progress		

notes indicated the student had met all articulation goals appropriate to the student's age.		
<u>Student #16:</u> This student was found eligible under Traumatic Brain Injury. However, a medical diagnosis supporting this eligibility determination was not pulled forward and there was no documentation of skill-based evaluation in the areas of fine and gross motor.		
<u>Student #17:</u> This student was found eligible under Specific Learning Disabilities. However, documentation within the file did not support eligibility under this category and no override procedure was conducted. In addition, there was no evidence of skill-based assessment in the student's file.		
<u>Student #19:</u> This student was found eligible under Speech/Language Impairments using criteria for Articulation Disorder. However, progress notes indicated the student had met all articulation goals appropriate to the student's age. Voice concerns were noted within the file and measurable annual goals were written to address the voice concerns.		
<u>Student #13:</u> This student was found eligible under Specific Learning Disability. However, required determination of eligibility documentation for students with an SLD was not included in the student's file.	<u>Student #13:</u> The district must convene the IEP team to complete eligibility determination documentation for students suspected of having a Specific Learning Disability using evaluation information from the most recent multi-disciplinary evaluation. If the team certifies the student as a student with a disability, the IEP team must develop a special education program that includes all required content and that is designed to confer educational benefit in all areas of disability.	<u>Student #13:</u> The district will submit the following: <ol style="list-style-type: none"> 1. Prior notice for a meeting 2. Copies of completed eligibility determination documents 3. Copy of the IEP designed to confer educational benefit (if the child is determined to be eligible for special education and related services)
Prong 2: Correctly implement the specific regulatory requirements (i.e. achieved 100% compliance), based on the SEA's review of <u>updated data</u> .		
Required Action: The district must review and revise current policy, procedures, and practice to ensure that documentation is available to support the eligibility of each child who is certified and placed on child count. Additionally, district special education staff must participate in technical assistance, which at a minimum		

must address the use of prior notice, evaluation procedures, eligibility determination, and IEP content requirements.
Data To Be Submitted: The district must submit the following information for all students who are initially evaluated or reevaluated over the next four months: <ol style="list-style-type: none"> 1. Prior notice/consent for evaluation 2. Prior notice for a meeting 3. Evaluation reports, skill-based assessment information, and eligibility determination documents 4. IEP developed to confer educational benefit to the student (if found eligible for special education and related services)
Target Date for Completion: May 15 th , 2012
All non-compliance must be corrected within 1 year of this report date.
Date:
Status Report:

3. GENERAL SUPERVISION / STATE PERFORMANCE PLAN COMPLIANCE INDICATOR

ARSD 24:05:25:22. IEP team to develop individual education program. If the child is determined to be in need of special education or special education and related services, the IEP team shall develop an appropriate individual education program for the child. At the beginning of each school year thereafter, the district must have in effect an IEP for each child with disabilities within its jurisdiction. For children beginning at age three, an IEP shall be in effect by that date. If a child's third birthday occurs during the summer, the IEP team shall determine the date when services under the IEP will begin. All IEPs shall be developed in accordance with the provisions of this article.

ARSD 24:05:27:01.02. Development, review, and revision of individualized education program. In developing, reviewing, and revising each student's individualized education program, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student. The individualized education program team also shall:

- (1) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;
- (2) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;
- (4) Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
- (5) Consider whether the student requires assistive technology devices and services.

ARSD 24:05:27:01.03. Content of individualized education program. Each student's individualized education program shall include:

- (1) A statement of the student's present levels of academic achievement and functional performance, including:
 - (a) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or
 - (b) For preschool student, as appropriate, how the disability affects the student's participation in appropriate activities;

- (2) A statement of measurable annual goals, including academic and functional goals, designed to:
 - (a) Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
 - (b) Meet each of the student's other educational needs that result from the student's disability;

For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP shall provide a description of benchmarks or short-term objectives;

- (3) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:
 - (a) To advance appropriately toward attaining the annual goals;
 - (b) To be involved and make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and
 - (c) To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;
- (4) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section;
- (5) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with § 24:05:14:14. If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:
 - (a) The student cannot participate in the regular assessment; and
 - (b) The particular alternate assessment selected is appropriate for the student;
- (6) The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications;
- (7) A description of how the student's progress toward the annual goals described in this section will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- (8) Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:
 - (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills; and
 - (b) The transition services (including courses of study) needed to assist the student in reaching those goals

CORRECTIVE ACTION

Prong 1: Correct each individual case of noncompliance

Through a review of student files, the monitoring team found that the IEP and special education services were not consistently developed to confer educational benefit to the student.

Student:	Required Action:	Data To Be Submitted:
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<u>Student #1:</u> This student was found eligible under the Autism category. However, the present levels of academic achievement and functional performance, measurable annual goals, and special education services do not address adaptive behavior/social skills, or behavior.	See required actions for Students #1 & 6 in Noncompliance Issue #2 of this report.	See data to be submitted for Students #1 & 6 in Noncompliance Issue #2 of this report.
<u>Student #6:</u> Although this student was found eligible under Autism, behavior was not included in the Present Levels of Academic Achievement and Functional Performance. Additionally, the description of services only notes ‘special education 100%.’		
<u>Student #3:</u> This student was found eligible under Developmental Delay. However, the description of services only notes ‘specialized instruction.’	<u>Students #3, 5 & 7:</u> The district will convene the IEP teams to amend the description of services so that they are designed to confer educational benefit in the area(s) of disability. For student #5, the district will also provide information to the student and parents regarding the transfer of parental rights and document this on the IEP or addendum.	<u>Students #3, 5, & 7:</u> The district will submit the following: 1. Prior notice for a meeting 2. Copy of the addendum to the IEP outlining changes to the description of services and for student #5 documentation of the notice of transfer of parental rights
<u>Student #5:</u> This student was found eligible under Cognitive Disability. However, the description of services only notes ‘day program.’		
<u>Student #7:</u> This student was found eligible under Multiple Disabilities. However, the description of services does not match the present levels of academic achievement and functional performance or the annual measurable goals.		
Prong 2: Correctly implement the specific regulatory requirements (i.e. achieved 100% compliance), based on the SEA’s review of <u>updated data</u>.		
Required Action: The district must review and revise current policy, procedures, and practice to ensure that each certified student’s IEP includes all required content and is designed to confer educational benefit to the student.		
Data To Be Submitted: Counting IEPs submitted for compliance monitoring in Prong 2 of Noncompliance Issue #2, the district must submit IEPs to total two from each special education teacher in the district written since the on-site review.		
Target Date for Completion: May 15 th , 2012		
All non-compliance must be corrected within 1 year of this report date.		
Date:		
Status Report:		

4. GENERAL SUPERVISION / STATE PERFORMANCE PLAN COMPLIANCE INDICATOR

ARSD 24:05:27:01.03. Content of individualized education program. Each student's individualized education program shall include:

- (9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

24:05:30:16.01. Transfer of parental rights. Consistent with state law, when a child with a disability reaches the age of majority that applies to all children, except for an eligible child who has been determined to be incompetent, the following shall occur:

- (1) The school district shall provide any notice required by this article to both the individual and the parents;
- (2) All other rights accorded to parents under this article transfer to the child; and
- (3) All rights accorded to parents under this article transfer to children who are incarcerated in an adult or juvenile, state, or local correctional institution.

If a state transfers rights under this section, the school district shall notify the individual and the parents of the transfer of rights. If, consistent with state law, an eligible child is determined not to have the ability to provide informed consent with respect to the educational program of the child, the school district shall appoint the parent or, if the parent is not available, another appropriate individual to represent the educational interests of the child throughout the child's eligibility under this article.

Prong 1: Correct each individual case of noncompliance

Through a review of student files, the monitoring team found that the district did not consistently provide notice of transfer of parental rights to students by their 17th birthday.

Student:	Required Action:	Data To Be Submitted:
<u>Student #5:</u> This student turned 17 on August 15 th , 2011 but had not been provided notice of transfer of parental rights.	<u>Student #5:</u> See required actions for Student #5 in Noncompliance Issue #3 of this report.	<u>Student #5:</u> See data to be submitted for Student #5 in Noncompliance Issue #3 of this report.
<u>Student #17:</u> This student turned 17 on October 7 th , 2010. Notice of transfer of parental rights was provided on October 6 th , 2011; however, included in the file was a form that allowed parents to waive the transfer of parental rights upon the student turning 18.	<u>Student #17:</u> See required actions for Student #17 in Noncompliance Issue #2 of this report.	<u>Student #17:</u> See data to be submitted for Student #17 in Noncompliance Issue #2 of this report.

Prong 2: Correctly implement the specific regulatory requirements (i.e. achieved 100% compliance), based on the SEA's review of updated data.

Required Action: The district must review and revise current policy, procedures, and practice to ensure that each student turning 17 years old has been provided with notice of transfer of parental rights and this is documented in the student's IEP. Additionally, district staff responsible for the case management of transition-aged students must participate in technical assistance addressing transition requirements and specifically addressing notice of transfer of parental rights.

Data To Be Submitted: For two students turning 17 years old during the course of the compliance monitoring year (or fewer if two students are not of the

appropriate age to require notice of transfer of parental rights), the district must submit a copy of the student's IEP. These IEPs could count towards the required data submission for Prong 2 of Noncompliance Issue #3.

Target Date for Completion: Sept. 15th, 2012

All non-compliance must be corrected within 1 year of this report date.

Date:

Status Report:

STATE PERFORMANCE INDICATORS

Indicator 5: Placement of Children Age 6-21:

A) Percent of children with IEPs inside the regular class 80% or more of the day.

State Target: 65% or higher

District Rate: 87.27%

District Response: Our inclusion rate is strong, but it may not always be appropriate for all cases.

Indicator 2: Dropout Rate:

Percent of youth with IEPs dropping out of high school.

State Target 3.31% or lower

District Rate: 7.14%

District Response: We should continue to do everything in our power to help IEP kids graduate. Perhaps we should not be so slow to consider more restrictive options/placements.